



Community Development

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TO: City Council

May 20, 2013

FM: Kamuron Gurol

RE: *Revised* - Summary of Council identified amendments to the Environmental Critical Areas (ECA) Regulations

Background:

The Council held several study sessions from early March through mid-April to review the Planning Commission's recommended amendments to the ECA regulations. Through the course of that review, Councilmembers identified several possible amendments that they will wish to consider as part of their deliberations.

The following is a list and brief description of the proposed amendment to the ECA regulations identified by each Council member, with a brief summary of the components associated with the proposed change to the regulatory policy.

Amendments that are identified with *italicized text* were identified after the council packet for May 7, 2013 or reflect clarifications provided by the individual Councilmembers.

Don Gerend:

- Identification of "Wetlands of Local Significance": Councilmember Gerend has suggested that the Council identify Category I Bog wetlands as "Wetlands of Local Significance" and provide for additional protection.
- Isolated / Small Wetland Flexibilities: Councilmember Gerend has suggested that the Council consider modifying the provisions to:
 - Allow for the alteration of wetlands of Class III or IV under 4000 square feet
 - Allow for fee-in-lieu mitigation
 - Set up a Sammamish Based mitigation program within the same watershed
 - Prioritize mitigation to expand the habitat for Lake Sammamish kokanee or expanding educational opportunities.

Ramiro Valderrama-Aramayo:

- Isolated / Small Wetland Flexibilities: Deputy Mayor Valderrama-Aramayo has suggested the Council consider the following policy approach to small and isolated wetlands:
 - Establish a pilot program for 3 single family residence (SFR) projects anywhere in the city.

- Small wetlands under 4,000 square feet with a low habitat score
- Require the applicant to fund monitoring all water quality and effects.
- Allow for mitigation by:
 - Participating in the King County fee-in-lieu mitigation program (prioritization given to in-City mitigation through interlocal with King County), or
 - Allowing on-site relocation of the wetland and associated wetland mitigation.

Tom Vance:

- Erosion Hazard Near Sensitive Water Body overlay – Pilot Program: Councilmember Vance has suggested the Council consider the following policy approach to the Erosion Hazard near Sensitive Water Body (EHNSWB) overlay:
 - Do not adopt the pilot program for subdivision / development in the no-disturbance area.
 - As a component of the 2015 Comprehensive Plan Re-write process, undertake a zoning study that would consider a re-zone all properties in the no-disturbance area to R-1.
 - Allow for subdivision of R-1 zoned properties in the no-disturbance area, provided:
 - Storm mitigation is installed.
 - Clustering to minimize impervious surfaces and clearing / grading within the no-disturbance area.
 - Limit onsite impervious surface to avoid additional drainage discharge.
 - Grandfather current zoned “lot yield” and allow sale of density TDRs as an alternative to subdivision at R-1 density.
 - Increase TDR receiving areas elsewhere in Sammamish such as the commercial zones.
- Allowances for Existing Urban Development and Other Uses: Councilmember Vance has suggested the Council consider not adopting the proposed amendments that would use the term “building” as opposed to “single family”. As an alternative, allowances would be provided for expansions to existing single family residences.

Nancy Whitten:

- Isolated / Small Wetland Flexibilities: Councilmember Whitten has suggested the Council include a water quality component in identifying which isolated wetlands would qualify for additional flexibility.
- Critical Aquifer Recharge Areas: Councilmember Whitten has suggested the Council consider an amendment to prohibit the use of “vertical” geothermal wells within Class 1 and 2 Critical Aquifer Recharge Areas.
- Stream and Wetland Fee-in-Lieu mitigation: Councilmember Whitten has suggested the Council consider the following policy amendments:
 - Limiting the use of fee-in-lieu mitigation for streams and wetlands to city capital projects and single family homes. Fee-in-lieu mitigation would be prohibited for subdivisions and non-residential development.

- Require that fee-in-lieu mitigation only be allowed if in the same sub-basin as the altered wetland or stream.
- Erosion Hazard Near Sensitive Water Body overlay – Pilot Program: Councilmember Whitten has suggested the Council consider the following policy approach to amending the pilot program in the EHNSWB overlay:
 - Limit the number of pilot program projects to one short plat using a tightline to Lake Sammamish.
 - A second project may be authorized if it includes a volume control component
 - Limit the total project acreage to 10 acres.
 - Limit the number of lots to an R-1 density in the no-disturbance area.
 - Limit impervious surface to 10% of the total site area.
 - Increase the percent of open space to 50% and increase tree retention within the subdivision
 - Locate new lots near the bottom of the no-disturbance area (e.g. within 200 feet of the “toe” of the no-disturbance area).
 - Require increased rainwater harvesting.
- Erosion Hazard Near Sensitive Water Body overlay – expansions for single family homes on small lots: Councilmember Whitten has suggested the Council consider the allowing for single family homes to increase the footprint by up to 400 square feet (currently allowed by up to 200 square feet).
- Erosion Hazard Near Sensitive Water Body overlay – expansions for single family homes on small lots: Councilmember Whitten has suggested the Council consider in lieu and replacement and substitution of Items 4-15g and 4-15f, we add a new Item 4-15h, pilot projects in the no-disturbance zone, as follows:
 1. *There shall be no more than two pilot projects: one using a tightline for storm water that by-passes all erosion hazard areas; the other using LID, including volume control standards equal to pre-forested conditions.*
 2. *Require 50% forested/natural permanent open space, replicating existing predevelopment water cycle.*
 3. *Allow maximum of ten housing units per pilot project and a minimum lot size of one acre.*
 4. *A 10% impervious surface limit, except as the director may authorize if required for access or other design factors.*
 5. *Green building requirements limiting clearing and grading to the minimum site area necessary to complete the project.*
 6. *Complete monitoring should begin with analysis of pre-development conditions, continue through development, and continue post project completion.*

In addition to the foregoing Councilmember Whitten suggests that each of the following items be made part of any pilot program in the no disturbance area.

- a. *Other than a tightline, no runoff shall be conveyed using man-made conveyances, including but not limited to drainage ditches.*
- b. *Storm water controls should meet the 80% phosphorus removal goal under the AKART standard, with a minimum of 60% removal required.*
- c. *Clustering of housing units should be encouraged if feasible.*
- d. *All permanent erosion control measures shall be in place prior to commencement of clearing and grading and other construction activities.*
- e. *“Active “ chemical and mechanical water quality treatment is required during clearing and grading.*
- f. *No clearing and grading except during dry conditions during the period from June 1-August 31, and except at the discretion of the Director based on predicted weather conditions during May and September.*
- g. *An objective, equitable selection process shall be used by staff to determine the best suited properties to be chosen for the two pilot programs. Criteria should include but not be limited to soil conditions, topographic characteristics of the property, the presence of bodies of water and whether the property is best suited to provide a fair exercise of the pilot program given its purposes. Notice of possible eligibility shall be sent to all known eligible property owners who could then submit requests for consideration within an identified period of time.*
- h. *No additional pilot programs shall be allowed in the no-disturbance zone until the performance of the pilot programs can be evaluated over a seven year period, post development.*
- i. *No infiltration shall be allowed in the no-disturbance area except in an area below any erosion hazard.*
- j. *Proper energy dissipaters shall be required for any tightline*

For independent consideration Councilmember Whitten also recommends the Council consider the following:

- I. *Permanent post development bonds are required to protect the City and downstream and downslope property owners from pilot project failure.*
- II. *Post development HOAs and homeowners will indemnify the City and downstream and downslope homeowners from pilot project failure.*
- III. *All costs associate with the pilot programs, shall be borne by the developer and the city shall be reimbursed for all staff time and expenses and for outside consultant and other third party expenses incurred by the city in regard to the pilot programs.*